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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/987,952

11/16/2001

Eric Lee Musselwhite

5793.3076-00

7893

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7590

03/22/2007

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
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EXAMINER

KARMIS, STEFANOS

ART UNIT

PAPER NUMBER

3691

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/22/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 09/987,952	Applicant(s) MUSSELWHITE ET AL.	
	Examiner Stefano Karmis	Art Unit 3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following application, filed 16 November 2001 has been reviewed.

Status of Claims

2. Original claims 1-42 are currently pending.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Lilly et al. (hereinafter Lilly) U.S. Publication No. 2002/0156723:

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

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Claims 1, 15 and 29, Lilly discloses a method for managing a financial account, comprising:

providing a consumer with the financial account having a first account component and a second account component, wherein the first and second account components have respective first and second account parameters associated with purchase transactions made by the consumer using the financial account (page 2, paragraph 0030 and page 4, paragraph 0042);

allowing the consumer to select a vendor to be associated with the first account component; and processing purchase transactions with the selected vendor based on the first account parameter (page 7, paragraph 0058); and

processing purchase transactions with other vendors based on the second account parameter (page 10, paragraph 0090).

Claim 2, 16 and 30, generating a billing statement reflecting an amount to be paid by the consumer based on the first and second account parameters, wherein the amount to be paid is reduced when based on the first account parameter (page 14, paragraph 0125).

Claims 3, 17 and 31, wherein the financial account is a credit card account and the consumer may select any vendor that accepts purchases using the credit card account (page 4, paragraph 0039).

Claims 4, 18 and 32, wherein the first account parameter is a first interest rate and the second account parameter is a second interest rate different from the first interest rate (page 5,

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paragraph 0050 and Figure 3B).

Claims 5, 19 and 33, wherein the purchase transactions are associated with one of: (i) an internet-based purchase transaction; (ii) a point-of-sale purchase transaction; (iii) a purchase transaction made over a telephone; and (iv) a purchase transaction made using conventional mail (page 9, paragraph 0078).

Claims 6, 20 and 34, wherein allowing the consumer to select a vendor further comprises: presenting an offer for the financial account to the consumer, wherein the offer includes a request to select a vendor to be associated with the financial account (page 7, paragraph 0063).

Claims 7, 21 and 35, wherein the request includes a list of vendors, and wherein the consumer may select the vendor from the list (page 7, paragraph 0063).

Claims 8, 22 and 36, wherein the request includes a list of vendors, and wherein the selected vendor is not included in the list (page 10, paragraph 0087).

Claims 9, 23 and 37, wherein the financial account includes an available balance that is adjusted based on the purchase transactions with the selected and other vendors (page 10, paragraph 0090).

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Claims 10, 24 and 38, wherein processing purchase transactions with the selected vendor comprises: applying first fees to the financial account for purchase transactions with the selected vendor based on the first account parameter (page 5, paragraph 0050 and Figure 3B).

Claims 11, 25 and 39, wherein processing purchase transactions with the other vendors comprises: applying second fees to the financial account for purchase transactions with the other vendors based on the second account parameter, wherein the second fees are higher than the first fees (page 5, paragraph 0050 and Figure 3B).

Claims 12, 26 and 40, wherein the first and second account parameters are first and second interest rates, respectively, wherein the first interest rate is lower than the second interest rate (page 5, paragraph 0050 and Figure 3B).

Claims 13, 27 and 41, wherein the first and second account parameters include first and second finance charges, respectively (page 5, paragraph 0050 and Figure 3B).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 14, 28 and 42 rejected under 35 U.S.C. 103(a) as being obvious over Lilly et al. (hereinafter Lilly) U.S. Publication No. 2002/0156723 in view of Spear U.S. Publication No. 2002/0138428.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Claims 14, 28 and 42, Lilly teaches processing purchase transactions with the selected vendors (page 7, paragraph 0058). Lilly fails to teach reducing fees charged to the financial account for purchase transactions with the selected vendor based on a number of purchase transactions with the selected vendor over a predetermined time period. Spear teaches a hybrid credit card transaction system in which incentives fees may be reduced or waived for bulk purchases (page 4, paragraph 0031). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Lilly to include the teachings of Spear because it provides a way to build loyalty between a customer and a selected vendor.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefano Karmis whose telephone number is (571) 272-6744. The examiner can normally be reached on M-F: 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alex Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Respectfully Submitted
Stefano Karmis
19 March 2007

A handwritten signature in black ink, appearing to read 'Stefano Karmis', is written over the typed name and date.